

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

DAVID E. PORTER and CAROLYN E.)
PORTER, SHOWNA CHANGE, J. REED)
DIXON, HENRY A. DOWGIELEWICZ)
and BARBARA A. DOWGIELEWICZ,)
ELECTRIC POWER OPERATIONS &)
DELIVERY, INC. (EPOD, INC.), BARRY)
EVANS, GLENN F. JORGENSEN, ERIC)
LALIBERTE and TERESE LALIBERTE,)
W. ANDREW MORRISON, MICHAEL K.)
MURPHY AND AMANDA T. MURPHY,)
TIM MICHAEL VOIGHT, DOUGLAS E.)
WARREN, KAREN A. WASHINGTON,)
and JANET K. WATTS,)

Plaintiffs,)

v.)

BULL MOUNTAIN DEVELOPMENT)
CO. NO. 1, LLC and BMP)
INVESTMENTS, LLC,)

Defendants.)

CIVIL ACTION NO. 3:06-cv-1
Judge Phillips

ORDER PERMITTING LIMITED BIFURCATION

Upon motion of plaintiffs and with the consent of the defendants it is

ORDERED that the Plaintiffs' Motion to Bifurcate Trial if Necessary or Defer Coal Lease Issues and Attorney Fee Issues is granted with the modification requested by defendants; thus, the Court will determine first the issues relating to the general validity and enforceability of the Overriding Royalty Agreements asserted by the plaintiffs, but will reserve a decision on the Defendants' Sixth Affirmative Defense which is "Rendering the Overriding Royalty Agreements Void for Lack of Authority" for later determination if necessary, and the Court will likewise defer

for later determination the allowability and amounts of attorneys' fees and costs to be allowed to the prevailing party on the various claims.

ENTER this 2ND day of MAY, 2007.

Thomas W. Phillips

HONORABLE THOMAS W. PHILLIPS
UNITED STATES DISTRICT JUDGE

APPROVED FOR ENTRY:

HARWELL, HOWARD, HYNE
GABBERT & MANNER, P.C.

BY: s/ Glenn B. Rose

Craig B. Gabbert, BPR #004702

Glenn B. Rose, BPR 010598

J. David McDowell, BPR #024588

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CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2007, a copy of the foregoing document was submitted to the Court. Notice of the submission will be sent by electronic mail to all parties indicated on the electronic filing receipt.

s/ Glenn B. Rose